

**CALIFORNIA BAY-DELTA
MEMORANDUM OF UNDERSTANDING
AMONG FEDERAL AGENCIES**

I. RECITALS

(a) The Sacramento/San Joaquin River Delta-San Francisco Bay estuary (Bay-Delta) is among the most important estuary ecosystems in the nation. The Bay-Delta is a source of drinking water for more than 22 million people; it supports a \$28 billion agricultural industry; and, until recently, the Delta has supported a thriving commercial and recreational fishing industry that has contributed hundreds of millions of dollars to the California economy. The Bay-Delta is also the heart and a critical crossroads of the delivery system that transports water from Northern California to agricultural and urban water users south of the Delta.

(b) The Bay-Delta is in crisis. Decades of environmental degradation have led to severe declines in Delta fisheries. California is in the third year of drought. Both the Bay-Delta ecosystem and the economy dependent on its water and fish are on the precipice of collapse. The condition of the Bay-Delta has resulted in significant curtailments of deliveries to water users south of the Delta. Furthermore, climate change and seismic risks present additional, serious threats to the Bay-Delta environment, the levees and the Delta communities that depend on them, as well as the water supplies that travel through the Bay-Delta.

(c) Given the national significance of the Bay-Delta ecosystem and its importance to the millions of people who depend on it for water supplies and for environmental benefits, it is imperative that the federal government reestablish its leadership role in Bay-Delta matters, working in partnership with the State of California and interested stakeholders. Much has been done over the years to address problems in the Bay-Delta, and this Memorandum of Understanding (MOU) is intended to build upon and complement the collaborative work already being done by the federal government and other key stakeholders.

II. PURPOSE

(a) The purpose of this MOU is to confirm the federal commitment to work in partnership with the State of California and diverse stakeholders to exercise their full authorities and apply sound science to provide for a high quality, reliable and sustainable long-term water supply for California, and restore the environmental integrity and sustainability of the Bay-Delta ecosystem.

(b) This MOU establishes a structure for coordinating and streamlining the actions of the federal agencies with primary responsibilities and authority over key aspects of the

Bay-Delta and its tributaries to facilitate advancing the federal commitment to this critical ecosystem.

III. PARTIES

The parties to this MOU are:

- (a) The United States Department of the Interior (DOI), which has jurisdiction pursuant to the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law;
- (b) The United States Environmental Protection Agency (USEPA), which has jurisdiction pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (Clean Water Act), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law;
- (c) The United States Department of Commerce (Commerce), which has jurisdiction pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (ESA), the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) and other applicable law;
- (d) The United States Army Corps of Engineers (Corps), which has jurisdiction pursuant to flood control, water supply, flood risk reduction, aquatic ecosystem restoration authorities, the Clean Water Act, and other applicable law.
- (e) The United States Department of Agriculture (USDA), which has jurisdiction pursuant to title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.
- (f) The Council on Environmental Quality (CEQ), which has jurisdiction pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable law.

IV. FEDERAL BAY-DELTA LEADERSHIP COMMITTEE

- (a) The Secretary of the Interior (Secretary) and/or his designee will represent the Administration as the lead for developing and coordinating federal policy and commitments in Bay-Delta matters.
- (b) The Chair of the CEQ (Chair) will work with the Secretary of the Interior in coordinating the development and implementation of federal policy and commitments in Bay-Delta matters.

(c) Coordination among the federal agencies will be facilitated through the formation of a Federal Bay-Delta Leadership Committee, which will be co-chaired by the Secretary of the Interior and the Chair of CEQ, or their designees. The Federal Bay-Delta Leadership Committee will include a single senior designee from each of the following agencies: the Department of Commerce, the U.S. Army Corps of Engineers, the Environmental Protection Agency, the Department of Agriculture, and such other agencies as the Secretary and the Chair deem necessary .

(d) The Federal Bay-Delta Leadership Committee will meet on a periodic basis to develop and coordinate federal participation in Bay-Delta matters. Activities coordinated through the Committee shall include efforts addressing drought, review of projects and operations intended to address short and medium term issues, implementation of measures developed pursuant to the ESA-related requirements, and the development of the Bay Delta Conservation Plan and other longer-term mechanisms to improve the ecological health of the Bay-Delta and address water supply and quality needs in a sustainable manner.

(e) Participating agencies shall use budget crosscut authority to the extent feasible in furtherance of the purposes of this MOU.

(f) Regional offices of the participating agencies will establish a structure that provides for the close and effective coordination of their actions and participation in matters affecting the Bay-Delta.

V. FEDERAL WORK PLAN

(a) The parties commit to develop, by December 15, 2009, a coordinated federal workplan outlining near term actions that will be taken on Bay-Delta issues. The workplan will be developed in furtherance of the purposes set forth in this MOU by the Federal Bay-Delta Leadership Committee in close coordination with the parties' regional offices having authority over the Bay-Delta region and in consultation with the State of California and other interested stakeholders. In developing the workplan, the parties will set near term goals and will review and prioritize actions to achieve those goals.

(b) This workplan may include, but is not limited to, actions on the following issues:

(i) Expanding an interagency science program to provide a common scientific basis for agency efforts and to address key uncertainties in scientific information with potential to inform management decisions in the near-term and long-term;

(ii) Identifying and expediting habitat restoration projects in the Suisun Marsh and other biologically critical sites;

(iii) Addressing water quality threats to the Delta through expedited development and implementation of a water quality monitoring and assessment program, and integrating agency regulatory efforts with such actions;

- (iv) Integrating flood risk and levee stabilization efforts with water supply and species recovery;
- (v) Developing and expanding projects aimed at mitigating and adapting to the effects of climate change on Delta stability;
- (vi) Developing a coordinated process for undertaking regulatory actions by federal agencies in the Bay-Delta including, but not limited to, consolidation of scientific review by and the potential co-location of U.S. Fish & Wildlife Service and the National Marine Fisheries Service personnel, and a review of current agreements and regulatory activities in the Bay-Delta;
- (vii) Accelerating Recovery Act and other projects in the Bay-Delta and areas affected by the Bay-Delta ecosystem and water supplies passing through the Delta; and
- (viii) Encouraging conservation, recycling, and efficiencies in water use.

(c) As this workplan is developed and implementation begins, the parties and their regional offices will coordinate closely with the State of California and diverse stakeholders, and ensure that there is open and ongoing communication throughout.

VI. MISCELLANEOUS PROVISIONS

- (a) Nothing in this MOU is intended to restrict the authority of any party to act as provided by law, statute or regulation.
- (b) This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the parties, their officers or employees, or any other person. This MOU does not direct or apply to any person other than the parties.
- (c) This MOU is to take effect upon the signature of the parties and remain in effect for a period of five years. This MOU may be extended or modified at any time upon the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by providing written notice to the other parties at least thirty days in advance of the desired termination date.
- (d) As required by the Antideficiency Act, 31 U.S.C. Sections 1341 and 1342, all commitments in this MOU are subject to the availability of appropriated funds. Nothing in this MOU, in and of itself, obligates any signatory agency to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with agency budget priorities. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

VI. SIGNATURES

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